

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1025 be amended to read as follows:

- 1 Page 4, after line 36, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-9-27-1, AS AMENDED BY P.L.214-2005,
- 3 SECTION 34, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2006]: Sec. 1. This chapter applies to ~~the~~
- 5 following:
- 6 (1) ~~A~~ town:
- 7 (A) located in a county having a population of more than
- 8 sixty-five thousand (65,000) but less than seventy thousand
- 9 (70,000); and
- 10 (B) having a population of more than nine thousand (9,000):
- 11 (2) ~~A~~ town:
- 12 (A) located in a county having a population of more than
- 13 thirty-four thousand nine hundred (34,900) but less than
- 14 thirty-four thousand nine hundred fifty (34,950); and
- 15 (B) having a population of less than one thousand (1,000):
- 16 (3) ~~A~~ town:
- 17 (A) located in a county having a population of more than one
- 18 hundred thousand (100,000) but less than one hundred five
- 19 thousand (105,000); and
- 20 (B) having a population of more than fifteen thousand
- 21 (15,000):
- 22 (4) ~~A~~ town:
- 23 (A) located in a county having a population of more than one
- 24 hundred thousand (100,000) but less than one hundred five
- 25 thousand (105,000); and
- 26 (B) having a population of more than ten thousand (10,000)
- 27 but less than fifteen thousand (15,000):
- 28 (5) ~~A~~ town:
- 29 (A) located in a county having a population of more than one
- 30 hundred thousand (100,000) but less than one hundred five

thousand (105,000); and

(B) having a population of more than five thousand (5,000) but less than six thousand three hundred (6,300);

(6) A city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740): **all municipalities.**

SECTION 5. IC 6-9-27-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.3. As used in this chapter, "fund" refers to a food and beverage tax receipts fund established under section 8 of this chapter.**

SECTION 6. IC 6-9-27-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 2.6. As used in this chapter, "municipality" has the meaning set forth in IC 36-1-2-11.**

SECTION 7. IC 6-9-27-3, AS AMENDED BY P.L.214-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) If a food and beverage tax under this article is not in effect in a municipality,** the fiscal body of the municipality may adopt an ordinance to impose an excise tax, known as the municipal food and beverage tax, on transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), the fiscal body shall immediately send a certified copy of the ordinance to the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the municipal food and beverage tax applies to transactions that occur **on or** after the ~~last first~~ day of the ~~month~~ **calendar quarter** that ~~succeeds~~ **is at least sixty (60) days after the month in date on** which the ordinance was adopted.

SECTION 7. IC 6-9-27-4, AS AMENDED BY P.L.214-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:**

(1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the ~~city or town~~ **municipality** in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail

1 merchant for sale as a single item (other than food that is only cut,
 2 repackaged, or pasteurized by the seller, and eggs, fish, meat,
 3 poultry, and foods containing these raw animal foods requiring
 4 cooking by the consumer as recommended by the federal Food and
 5 Drug Administration in chapter 3, subpart 3-401.11 of its Food
 6 Code so as to prevent food borne illnesses); or

7 (4) food sold with eating utensils provided by a retail merchant,
 8 including plates, knives, forks, spoons, glasses, cups, napkins, or
 9 straws (for purposes of this subdivision, a plate does not include
 10 a container or packaging used to transport the food).

11 (c) The municipal food and beverage tax does not apply to the
 12 furnishing, preparing, or serving of a food or beverage in a transaction
 13 that is exempt, or to the extent the transaction is exempt, from the state
 14 gross retail tax imposed by IC 6-2.5.

15 SECTION 8. IC 6-9-27-7, AS AMENDED BY P.L.214-2005,
 16 SECTION 38, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2006]: Sec. 7. The amounts received from the
 18 tax imposed under this chapter shall be paid monthly by the treasurer
 19 of state to the ~~city or town~~ fiscal officer **of the municipality** upon
 20 warrants issued by the auditor of state.

21 SECTION 9. IC 6-9-27-8, AS AMENDED BY P.L.214-2005,
 22 SECTION 39, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) If a **municipality imposes a**
 24 ~~tax is imposed~~ under section 3 of this chapter, ~~by a town described in~~
 25 ~~section 4 of this chapter,~~ the ~~town~~ fiscal officer **of the municipality**
 26 shall establish a food and beverage tax receipts fund.

27 (b) The ~~town~~ fiscal officer **of a municipality** shall deposit in this
 28 fund all amounts received under this chapter.

29 (c) Money earned from the investment of money in ~~the a~~ fund
 30 becomes a part of the fund.

31 SECTION 10. IC 6-9-27-9, AS AMENDED BY P.L.214-2005,
 32 SECTION 41, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) Except as provided in
 34 ~~subsection~~ **subsections (b) and (c), a municipality may use the** money
 35 ~~in the a fund established under section 8 of this chapter shall be used by~~
 36 ~~the town only~~ for the financing, construction, ~~operation,~~ **renovation,**
 37 **improvement, equipping,** or maintenance of the following:

- 38 (1) Sanitary sewers or wastewater treatment facilities.
- 39 (2) Park or recreational facilities.
- 40 (3) Drainage or flood control facilities.
- 41 (4) Water treatment, storage, or distribution facilities, **including**
- 42 **well fields.**
- 43 **(5) City or town halls.**
- 44 **(6) Police stations.**
- 45 **(7) Fire stations.**

46 **(b) A municipality may use money in a fund established under**

section 8 of this chapter to operate the facilities described in subsection (a)(1) through (a)(4).

~~(b)~~ **(c)** The fiscal body of the ~~town~~ **municipality** may pledge money in the fund to pay bonds issued, loans obtained, and lease payments or other obligations incurred by or on behalf of the ~~town~~ **municipality** or a special taxing district in the ~~town~~ **municipality** to provide the facilities **or projects** described in subsection (a).

~~(c)~~ **(d)** Subsection ~~(b)~~ **(c)** applies only to bonds, loans, lease payments, or obligations that are issued, obtained, or incurred after the date on which the tax is imposed under section 3 of this chapter.

(d) A pledge under subsection (a) is enforceable under IC 5-1-14-4.

SECTION 11. IC 6-9-27-10, AS AMENDED BY P.L.214-2005, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. With respect to obligations for which a pledge has been made under section ~~9(b)~~ **or 9.5(b)** ~~9(c)~~ of this chapter, the general assembly covenants with the holders of the obligations that this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the payment of any of the obligations is outstanding.

SECTION 12. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 6-9-27-8.5; IC 6-9-27-9.5".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1025, Digest Correction, as printed February 15, 2006.)

Senator FORD